

1 SYLVESTER & POLEDNAK, LTD.  
2 Jeffrey R. Sylvester, Esq. (Nevada Bar No. 4396)  
3 Allyson R. Noto, Esq. (Nevada Bar No. 8286)  
4 7371 Prairie Falcon Road, Suite 120  
5 Las Vegas, Nevada 89128  
6 Tel.: (702) 952-5200  
7 Fax: (702) 952-5205  
8 jeff@sylvesterpolednak.com  
9 allyson@sylvesterpolednak.com

6 MORRISON & FOERSTER LLP  
7 James E. Hough, Esq. (Admitted *pro hac vice*)  
8 1290 Avenue of the Americas  
9 New York, New York 10104-0050  
10 Tel.: (212) 468-8000  
11 Fax: (212) 468-7900  
12 jhough@mofo.com

13 Attorneys for Plaintiff  
14 JPMORGAN CHASE BANK, N.A.

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17  
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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

15 JPMORGAN CHASE BANK, N.A.,  
16 Plaintiff,  
17 v.  
18 KB HOME *et al.*,  
19 Defendant.

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20 AND ALL RELATED ACTIONS

2:08-CV-01711-PMP-RJJ  
BASE FILE  
2<sup>nd</sup> JOINT INTERIM DISCOVERY  
STATUS REPORT  
Related Cases:  
2:08-CV-01709-PMP-RJJ  
2:08-CV-01713-PMP-RJJ  
2:08-CV-01714-PMP-RJJ  
2:08-CV-01715-PMP-RJJ  
2:08-CV-01716-PMP-RJJ  
2:08-CV-01717-PMP-RJJ  
  
2:09-CV-01154-PMP-RJJ  
2:09-CV-01547-PMP-RJJ  
2:09-CV-01548-PMP-RJJ  
2:09-CV-01549-PMP-RJJ  
2:09-CV-01550-PMP-RJJ  
2:09-CV-01551-PMP-RJJ  
2:09-CV-01552-PMP-RJJ

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2<sup>ND</sup> JOINT INTERIM DISCOVERY STATUS REPORT

1 Pursuant to the Court's October 9, 2009 Order concerning interim discovery status reports (Doc.  
 2 # 147), the parties report as follows:

3 **I. DISCOVERY COMPLETED TO DATE**

4 **A. Document Requests**

5 1. On August 4, 2009, Plaintiff JPMorgan Chase Bank. N.A. ("JPMorgan")  
 6 served its First Request for the Production of Documents.

7 2. On September 14, 2009, defendants Pardee Homes of Nevada and  
 8 Weyerhaeuser Real Estate Company (collectively "Pardee"); Toll Brothers, Inc. and Coleman-  
 9 Toll Limited Partnership (collectively "Toll"); KB Home and KB Home Nevada Inc. (collectively  
 10 "KB"); Meritage Homes Corp. and Meritage Homes of Nevada, Inc. (collectively "Meritage");  
 11 and Beazer Homes USA, Inc. and Beazer Homes Holdings Corp. (collectively "Beazer", together  
 12 with Pardee, Toll, KB, and Meritage, the "Builder Defendants") served their 1<sup>st</sup> Joint Request for  
 13 the Production of Documents.

14 3. On October 28, 2009, the Builder Defendants served their first requests for  
 15 production of documents to defendant and third-party defendant Focus South Group LLC.

16 **B. Responses to Document Requests and Document Productions**

17 1. On September 11, 2009, each of the Builder Defendants responded and  
 18 objected to JPMorgan's document requests. In addition, the following defendants have produced  
 19 documents in partial response to JPMorgan's requests as follows:

20 a. On September 25 and October 5, 2009, defendant Focus South Group, LLC  
 21 produced just under 40,000 pages of documents;

22 b. On October 7, 2009, KB produced just over 4,500 pages of documents;

23 c. On October 8, 2009, Meritage produced just over 4,000 pages of  
 24 documents;

25 d. On October 9, 2009, Beazer produced just over 10,000 pages of  
 26 documents;

27 e. On October 26, 2009, Pardee produced just under 2,500 pages of  
 28 documents;

1 f. On October 29, 2009, Toll produced just over 11,000 pages of documents.

2 g. On November 11 and 20, 2009, Toll produced just over 37,000 pages of  
3 documents.

4 h. On November 20, 2009, Pardee produced just over 11,000 pages of  
5 documents.

6 i. On November 25, 2009, Beazer produced just over 11,000 pages of  
7 documents.

8 j. On December 10, 2009, Pardee produced just over 5,000 pages of  
9 documents.

10 2. On October 19, 2009, JPMorgan responded and objected to the Builder  
11 Defendants' requests and also produced 10,897 pages of documents in partial response to those  
12 requests.

13 C. Other Written Discovery

14 1. On October 12, 2009, JPMorgan served its first set of interrogatories.

15 2. The Builder Defendants responded to JPMorgan's 1<sup>st</sup> Set of Interrogatories  
16 between November 16 and 25, 2009.

17 **II. DISCOVERY THAT REMAINS OUTSTANDING**

18 A. Document Requests

19 1. The parties are still in the process of conferring in connection with a  
20 number of discovery disputes concerning a limited number of document requests and other  
21 written discovery.

22 B. Discovery of Electronically Stored Information

23 1. The parties are still in the process of finalizing and memorializing their  
24 agreement for the review of electronically stored information.

25 C. Depositions

26 1. On October 28, 2009, the Builder Defendants served a notice of 30(b)(6)  
27 Deposition of JPMorgan.

1                   2.       On November 6, 2009, the Builder Defendants served Notices of  
2 Deposition of Scott Bogatz and Michael Wilkinson.

3                   3.       On November 20, 2009, JPMorgan served its response to the 30(b)(6)  
4 Deposition Notice.

5                   4.       On November 20, 2009, Focus served Responses and Objections to  
6 Defendants' Notices of Deposition of Mr. Bogatz and Mr. Wilkinson.

7                   **D.       Third Party Discovery**

8                   1.       On October 28, the Builder Defendants served notices regarding the  
9 issuance of subpoenas in to (1) George Larry Engel, (2) White & Case LLP, (3) Morrison &  
10 Foerster, LLP and (4) Sidley Austin, LLP.

11                  2.       White & Case LLP objected and refused to produce any documents in  
12 response to the subpoena issued to it.

13                  3.       On December 11, the Builder Defendants withdrew without prejudice the  
14 subpoenas to Mr. Engel and Morrison & Foerster, LLP.

15                  4.       Plaintiff is currently coordinating the production of documents in response  
16 to the subpoena issued to Sidley & Austin.

17                  **III.    PENDING DISCOVERY MOTIONS**

18                  **A.       Motion to Compel Lender Discovery.**

19                  1.       Briefing was completed on Builder Defendants' Motion to Compel  
20 Plaintiff JPMorgan Chase Bank, N.A. to Produce Documents in the Possession or Control of the  
21 Other Lenders on December 7, 2009. A hearing is currently set before Magistrate Judge Johnston  
22 for January 8, 2010.

23                  **B.       Motion for Protective Order**

24                  1.       Plaintiff JPMorgan filed a Motion for Protective Order on December 16,  
25 2009 in connection with document discovery sought by KB Home. At the same time as it filed  
26 the Motion for Protective Order, JPMorgan filed a Motion for an Order Shortening Time and for a  
27 Temporary Protective Order.

1            C. Motion to Compel2            1. On December 17, 2009, the Builder Defendants filed a Motion to Compel  
3 the depositions of Mr. Wilkinson and Mr. Bogatz.4            **IV. SETTLEMENT DETAILS**5            1. Prior to litigation, the parties, through counsel, engaged financial  
6 consultants to assist in loan workout negotiations. Although those negotiations failed, and this  
7 litigation ensued, the parties continue to discuss and consider potential workout scenarios with the  
8 aid of their consultants.

9            Dated: December 18, 2009

Respectfully submitted,

10          By: /s/ Andrew J. Detherage \_\_\_\_\_  
11            Megan K. Dorsey  
12            KOELLER, NEBEKER, CARLSON, &  
13            HALUCK, LLP  
14            300 S. 4<sup>th</sup> St., # 500  
15            Las Vegas, NV 89101  
16            Tel: (702) 853-5500  
17            Fax: (702) 853-5599By: /s/ James E. Hough \_\_\_\_\_  
Jeffrey R. Sylvester  
SYLVESTER & POLEDNAK, LTD.  
7371 Prairie Falcon Road, Suite 120  
Las Vegas, Nevada 89128  
Tel.: (702) 952-5200  
Fax: (702) 952-5205  
jeff@sylvesterpolednak.com18            Andrew J. Detherage  
19            Karoline E. Jackson  
20            Barnes & Thornburg LLP  
21            11 S. Meridian Street  
22            Indianapolis, IN 46204  
23            Tel: (317) 236-1313  
24            Fax: (317) 231-7433James E. Hough  
MORRISON & FOERSTER LLP  
1290 Avenue of the Americas  
New York, New York 10104-0050  
Tel.: (212) 468-8000  
Fax: (212) 468-7900  
jough@mfo.com25            *Counsel and Of Counsel for Defendants*  
26            *Beazer Homes Holdings Corp. and*  
27            *Beazer Homes USA, Inc.**Counsel and Of Counsel for Plaintiff*  
*JPMorgan Chase Bank, N.A.*28          By: /s/ Bruce E. Van Dalsem \_\_\_\_\_  
29            Donald Lattin  
30            MAUPIN OATS COX& LEGOY, PC  
31            4785 Caughlin Pkwy  
32            Reno, Nevada 89509  
33            Tel: (775) 827-2000By: /s/ Mark T. Drooks \_\_\_\_\_  
Donald Lattin  
MAUPIN OATS COX& LEGOY, PC  
4785 Caughlin Pkwy  
Reno, Nevada 89509  
Tel: (775) 827-200034            Bruce E. Van Dalsem  
35            Michael T. Lifrak  
36            Quinn Emanuel Urquhart Oliver  
37            & Hedges, LLP  
38            865 S. Figueroa Street, 10th Floor  
39            Los Angeles, CA 90017  
40            Tel: (213) 443-3000Benjamin D. Lichtman  
Mark T. Drooks  
Bird, Marella, Boxer, Wolpert, Nessim,  
Drooks, et al.  
1875 Century Park East  
Los Angeles, CA 90067  
Tel: (310) 201-2100

1 Fax: (213) 443-3100

2 *Counsel and Of Counsel for Defendants*  
3 *KB Home and KB Home Nevada, Inc.*

4 By: /s/ Craig S. Newman

5 Craig S. Newman  
6 Fennemore Craig, P.C.  
7 300 South Fourth Street, #1400  
8 Las Vegas, NV 89101  
9 Tel: (702) 692-8000  
Fax: (702) 692-8099

10 *Counsel for Defendants Meritage*  
11 *Homes of Nevada, Inc. and Meritage*  
12 *Homes Corp.*

13 Fax: (310) 301-2110

14 *Counsel and Of Counsel for Defendants*  
15 *Coleman-Toll Limited Partnership and*  
16 *Toll Brothers, Inc.*

17 By: /s/ Anthony P. Sgro

18 Anthony P. Sgro  
19 Patti, Sgro, & Lewis  
20 720 S. 7<sup>th</sup> Street, 3<sup>rd</sup> Floor  
21 Las Vegas, NV 89101  
22 New York, New York 10016  
23 Tel: (702) 385-9595  
Fax: (702) 386-2737

24 *Counsel for Defendants Focus South*  
25 *Group, LLC and John A. Ritter*

26 Bryan A. Merryman  
27 White & Case  
28 633 West Fifth Street  
Los Angeles, CA 90250  
Tel: (213) 620-7700  
Fax: (213) 452-2329

29 *Counsel for Third-Party Defendant*  
30 *Focus South Group, LLC*

31 By: /s/ Fredric C. Nelson

32 Pat Lundvall (NSBN 3761)  
33 McDonald Carano Wilson LLP  
34 2300 West Sahara Avenue,  
35 Suite 1000  
36 Las Vegas, Nevada 89102  
37 Tel: (702) 873-4100  
Fax: (702) 873-9966

38 Fredric C. Nelson (CA SBN 48402)  
39 John R. Foote (CA SBN 99674)  
40 NIXON PEABODY LLP  
41 One Embarcadero Center, 18th Floor  
42 San Francisco, California 94111  
43 Tel: (415) 984-8200  
Fax: (415) 984-8300

44 *Counsel for Defendants Pardee*  
45 *Homes of Nevada and*  
46 *Weyerhaeuser Real Estate Company*